

GEORGE BROWN, JR.,)
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 Plaintiff,)
)
 v.) No. 1:06CV135 CDP
)
 MIKE WILLIAMS, et al.,)
)
 Defendants.)

This matter is before the Court on defendant Mike Williams’s motion to reconsider this Court’s orders granting plaintiff George Brown leave to commence this action in forma pauperis (IFP). Brown, a prisoner, has filed frivolous lawsuits while incarcerated and has, therefore, incurred “strikes” under 28 U.S.C.

Twenty-eight U.S.C. § 1915(g) is known as the Prisoner Litigation Reform Act's “three-strikes” provision. Under § 1915(g):

In no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding under this section if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any

facility, brought an action or appeal in a court of the United States that was dismissed *on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted*, unless the prisoner is under imminent danger of serious physical injury.

28 U.S.C. § 1915(g) (emphasis added).


Williams argues that Brown has incurred strikes in four instances: the pre-service dismissal of Brown v. Schneider, 4:00CV1821 LOD (E.D. Mo. 2001), pursuant to 28 U.S.C. § 1915(e)(2)(B); the pre-service dismissal of Brown v. Copeland, 1:02CV41 LMB (E.D. Mo. 2002), pursuant to 28 U.S.C. § 1915(e)(2)(B); the dismissal of Brown’s appeal in Brown v. Copeland, Slip Op. 02-2899 (8th Cir. 2002), for failure to prosecute; and the dismissal of Brown v. Williams, 1:06CV58 RWS (E.D. Mo. 2006), for failure to pay the initial filing fee as ordered by the Court.

Williams is correct that the dismissals in Brown v. Schneider, 4:00CV1821 LOD (E.D. Mo. 2001), and Brown v. Copeland, 1:02CV41 LMB (E.D. Mo. 2002), are strikes for the purposes of § 1915(g). However, the dismissals in Brown v. Copeland, Slip Op. 02-2899 (8th Cir. 2002), and Brown v. Williams, 1:06CV58 RWS (E.D. Mo. 2006), are not strikes under § 1915(g) because those cases were not dismissed “on the grounds that [they were] frivolous, malicious, or fail[ed] to state a claim upon which relief may be granted . . .” 28 U.S.C. § 1915(g). The

latter dismissals were for failure to prosecute and for failure to follow the Court's orders, respectively. Such dismissals do not fall under the language in § 1915(g) and, therefore, do not count as strikes under the PLRA. As a consequence, the Court shall deny Williams's motion for reconsideration.

Accordingly,

IT IS HEREBY ORDERED that Williams's motion for reconsideration [#24] is **DENIED**.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 15th day of March, 2007.